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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,929	12/10/2003	Kang Soo Seo	46500-000569/US	6314
36593	7590	12/03/2009		
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RESTON, VA 20195				
EXAMINER				
HILLERY, NATHAN				
ART UNIT		PAPER NUMBER		
2176				
MAIL DATE		DELIVERY MODE		
12/03/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/730,929

Applicant(s)

SEO ET AL.

Examiner

NATHAN HILLERY

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39, 42-45 and 57-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39, 42-45 and 57-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communications: RCE filed on 11/13/09.
2. Claims 39, 42 – 45, and 57 – 69 are pending in the case. Claim 39 is independent.

Continued Examination Under 37 CFR 1.114

3. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 39, 57, 61 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukagoshi et al. (US 5848217 A) and further in view of Crinon et al. (US 7174560 B1).

6. **Regarding independent claims 39 and 57,**

Tsukagoshi et al. teach that **reading text-based data including the presentation time stamp (PTS) from a recording medium** (Column 5, lines 49 – 67).

Tsukagoshi et al. teach that **displaying the text-based data synchronized with the video data using the presentation time stamp (PTS) of the video data and text data read from the recording medium** (Column 8, lines 49 – 65).

Tsukagoshi et al. do not explicitly teach **reading video data including presentation time stamp (PTS) and program clock reference (PCR) from a recording medium; and that the text-based data not including the program clock reference (PCR).**

Crinon et al. teach that **reading video data including presentation time stamp (PTS) and program clock reference (PCR) from a recording medium** (Column 8, lines 10 – 30) and that **the text-based data not including the program clock reference (PCR)** (Column 7, line 63 – Column 8, line 9),

Because both Tsukagoshi et al. and Crinon et al. teach methods of synchronizing data, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute one known element and/or method for the other to achieve the predictable result of utilizing a PCR as oppose to an SCR.

7. Regarding independent claims 61 and 66,

Tsukagoshi et al. teach that **recording video data including presentation time stamp (PTS) and program clock reference (PCR) and text-based data including the presentation time stamp (PTS)** (Column 14, line 59 – Column 15, line 13).

Tsukagoshi et al. teach that **recording the text-based data synchronized with the video data using the presentation time stamp (PTS) of the video data and text data** (Column 8, lines 49 – 65).

Tsukagoshi et al. do not explicitly teach **recording video data including presentation time stamp (PTS) and program clock reference (PCR)**; and that the **text-based data not including the program clock reference (PCR)**.

Crinon et al. teach that **recording video data including presentation time stamp (PTS) and program clock reference (PCR)** (Column 8, lines 10 – 30) and that the **text-based data not including the program clock reference (PCR)** (Column 7, line 63 – Column 8, line 9),

Because both Tsukagoshi et al. and Crinon et al. teach methods of synchronizing data, it would have been obvious to one of ordinary skill in the art at the

time of the invention to substitute one known element and/or method for the other to achieve the predictable result of utilizing a PCR as oppose to an SCR.

8. Claims 42 – 45, 58 – 60, 62 – 65 and 67 – 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukagoshi et al. (US 5848217 A) and Crinon et al. (US 7174560 B1) as applied to claims 39, 57, 61 and 66 and further in view of Jung et al. (US 20040081434 A1).
9. **Regarding dependent claim 42**, Tsukagoshi et al. and Crinon et al. do not explicitly teach **wherein the text-based data is subtitle data written in a mark-up language**.

Jung et al. teach that referring to FIG. 11, a markup language is used as text data for subtitles (paragraph block 0116), which meet the limitation of **wherein the text-based data is subtitle data written in a mark-up language**.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the invention of Tsukagoshi et al. and Crinon et al. with that of Jung et al. because such a combination would provide the users of an information storage medium on which sub picture data is recorded with a data structure in which when video data are coded, the amount of bits to be generated for sub picture data need not be considered in advance and an apparatus therefor (paragraph block 0031).

10. **Regarding dependent claim 43**, Tsukagoshi et al. and Crinon et al. do not explicitly teach **wherein a time resolution of the text-based data is lower than the time resolution of the video data**.

Jung et al. teach that the time can be expressed in units of (1/1000) second. Also, if video data is MPEG video, the time may have a presentation time stamp (PTS) value of video images on which the subtitle overlays and is displayed. Generally, the PTS value is a count value operating at 27 MHz or 90 kHz (paragraph block 0117), which meet the limitation of **wherein a time resolution of the text-based data is lower than the time resolution of the video data**, since the Specification discloses that the video PRT has a resolution of 90 KHz and the text PRT is in milliseconds (paragraph block 0038).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the invention of Tsukagoshi et al. and Crinon et al. with that of Jung et al. because such a combination would provide the users of an information storage medium on which sub picture data is recorded with a data structure in which when video data are coded, the amount of bits to be generated for sub picture data need not be considered in advance and an apparatus therefor (paragraph block 0031).

11. **Regarding dependent claim 44**, Tsukagoshi et al. and Crinon et al. do not explicitly teach **wherein the time resolution of the text-based data is of the order of several milliseconds**.

Jung et al. teach that the time can be expressed in units of 1/1000 second (paragraph block 0117), which meet the limitation of **wherein the time resolution of the text-based data is of the order of several milliseconds.**

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the invention of Tsukagoshi et al. and Crinon et al. with that of Jung et al. because such a combination would provide the users of an information storage medium on which sub picture data is recorded with a data structure in which when video data are coded, the amount of bits to be generated for sub picture data need not be considered in advance and an apparatus therefor (paragraph block 0031).

12. **Regarding dependent claim 45**, Tsukagoshi et al. and Crinon et al. do not explicitly teach **wherein the text-based data is recorded on the recording medium or provided by an external source through a network.**

Jung et al. teach that when subtitle data and font data that are not stored with video data on the information storage medium are downloaded through networks or loaded on the reproducing apparatus from an additional information storage medium, thus, subtitle data is easily used in other cases (paragraph block 0125), which meet the limitation of **wherein the text-based data is recorded on the recording medium or provided by an external source through a network.**

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the invention of Tsukagoshi et al. and Crinon et al. with that of Jung et al. because such a combination would provide the users of an information

storage medium on which sub picture data is recorded with a data structure in which when video data are coded, the amount of bits to be generated for sub picture data need not be considered in advance and an apparatus therefor (paragraph block 0031).

13. Regarding claims 58 – 60, 62 – 65 and 67 – 69, the claims incorporate substantially similar subject matter as claims 42 – 45, and are rejected along the same rationale.

Response to Arguments

14. Applicant's arguments filed 11/13/09 have been fully considered but they are not persuasive.

15. Applicant argues that Crinon fails to teach that **the text-based data not including the program clock reference (PCR)** because Crinon at col. 7, line 63 - col. 8, line 10 states that timing information is added to the transport video, audio, and data program elements to preserve the synchronization of various program elements lost in the multiplexing operation. A 27MHz. system clock 34 is sampled and the samples (program clock references or PCRs) are included in the transport data packets of the transport bit stream 16 (typically the transport data packets for the video element of the program) before transmission. Applicant further argues that the rejections under 35 USC 103(a) are improper because teaching away indicates nonobviousness in light of MPEG 2145.X.D.2.

The Office disagrees.

First, by applicant's own admission, Crinon teaches that PCRs are included typically in the transport data packets for the video element of the program (p 6, last paragraph – p 7, first paragraph). Therefore, Crinon teaches that in a typical embodiment the PCRs are included in the video not the text or audio thus meeting the limitation of **the text-based data not including the program clock reference (PCR)**.

It should further be noted that MPEP 2145.X.D.1 states that "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed.." *In re Fulton*, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). In this particular case, the Crinon teaches that typically the PCRs are included in the video data packets; thereby, explicitly teaching an embodiment that meets the claim language without teaching away from it.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHAN HILLERY whose telephone number is (571)272-4091. The examiner can normally be reached on M - F, 10:30 a.m. - 7:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W Doug Hutton can be reached on (571) 272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nathan Hillery/
Examiner, Art Unit 2176

Search Notes**Application/Control No.**

10/730,929

Applicant(s)/Patent under Reexamination

SEO ET AL.

Examiner

NATHAN HILLERY

Art Unit

2176

SEARCHED

Class	Subclass	Date	Examiner
715	201 203 205	1/19/2008	NH
ABOVE	UPDATED	10/10/2008	NH
ABOVE	UPDATED	3/4/2009	NH
ABOVE	UPDATED	9/11/2009	NH
ABOVE	UPDATED	12/2/2009	NH

INTERFERENCE SEARCHED

Class	Subclass	Date	Examiner

**SEARCH NOTES
(INCLUDING SEARCH STRATEGY)**

	DATE	EXMR
EAST (USPT, USPGPUB, JPO, EPO, Derwent, IBMTD) - See Search History Printout	1/19/2008	NH
EAST (USPT, USPGPUB, JPO, EPO, Derwent, IBMTD) - See Search History Printout	10/10/2008	NH
EAST (USPT, USPGPUB, JPO, EPO, Derwent, IBMTD) - See Search History Printout	3/4/2009	NH
EAST (USPT, USPGPUB, JPO, EPO, Derwent, IBMTD) - See Search History Printout	9/11/2009	NH
Spoke w/ Tod swann regarding the IDS citation of a foreign Office Action w/no translation	9/11/2009	NH
AST (USPT, USPGPUB, JPO, EPO, Derwent, IBMTD) - See Search History Printout	12/2/2009	NH